

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 140

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; AMENDING THE FAMILY  
OPPORTUNITY ACCOUNTS ACT TO CHANGE THE NAME OF THE ACT;  
CHANGING THE ELIGIBILITY REQUIREMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 58-30-1 NMSA 1978 (being Laws 2003,  
Chapter 362, Section 1, as amended) is amended to read:

"58-30-1. SHORT TITLE.--Chapter 58, Article 30 NMSA 1978  
may be cited as the "[~~Family Opportunity Accounts~~] Individual  
Development Account Act"."

Section 2. Section 58-30-2 NMSA 1978 (being Laws 2003,  
Chapter 362, Section 2, as amended) is amended to read:

"58-30-2. DEFINITIONS.--As used in the [~~Family  
Opportunity Accounts~~] Individual Development Account Act:

A. "account owner" means the person in whose name

1 ~~[a family opportunity]~~ an individual development account is  
2 originally established;

3 B. "allowable use" means a use that complies with  
4 the provisions of the ~~[Family Opportunity Accounts]~~ Individual  
5 Development Account Act, or rules adopted pursuant to that act;

6 C. "authorized financial institution" means a  
7 financial institution authorized by the office to hold and  
8 manage ~~[family opportunity]~~ individual development accounts and  
9 reserve accounts;

10 D. "director" means the director of the office;

11 E. "earned income" means wages from employment,  
12 payment in lieu of wages, disability payments, tribal  
13 distributions or earnings from self-employment or acquired from  
14 the provision of services, goods or property, production of  
15 goods, management of property or supervision of services;

16 F. "eligible individual" means a person who meets  
17 the criteria for opening ~~[a family opportunity]~~ an individual  
18 development account;

19 G. ~~["family opportunity"]~~ "individual development  
20 account" means an account established and maintained in an  
21 authorized financial institution by an eligible individual  
22 participating in ~~[a family opportunity accounts]~~ an individual  
23 development account program pursuant to the provisions of the  
24 ~~[Family Opportunity Accounts]~~ Individual Development Account  
25 Act;

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1           H. [~~"family opportunity accounts~~] "individual  
2 development account program" means a program approved by the  
3 office to establish and administer [~~family opportunity~~]  
4 individual development accounts and reserve accounts for  
5 eligible individuals and to provide financial training required  
6 by the office for account owners;

7           I. "financial institution" means a bank, bank and  
8 trust, savings bank, savings association or credit union  
9 authorized to be a trustee of individual retirement accounts as  
10 defined by federal law, the deposits of which are insured by  
11 the federal deposit insurance corporation or the national  
12 credit union administration;

13           J. "indigent" means an individual who, taking into  
14 account the present income and the liquid assets and the  
15 requirement for other basic necessities of life for [~~himself~~]  
16 the individual and [~~his~~] the individual's dependents, is unable  
17 to pay the costs of allowable uses as set forth in the [~~Family~~  
18 ~~Opportunity Accounts~~] Individual Development Account Act;

19           K. "matching funds" means money deposited in a  
20 reserve account to match the withdrawals for allowable uses  
21 from [~~a family opportunity~~] an individual development account  
22 according to a proportionate formula that complies with rules  
23 adopted by the director;

24           L. "nonprofit organization" means an  
25 instrumentality of the state or a local government or an

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1 organization described in Section 501(c)(3) of the Internal  
2 Revenue Code of 1986 and exempt from taxation pursuant to  
3 Section 501(a) of that code;

4 M. "office" means the office of workforce training  
5 and development;

6 N. "program administrator" means a nonprofit  
7 organization or tribe that is selected pursuant to the [~~Family~~  
8 ~~Opportunity Accounts~~] Individual Development Account Act to  
9 offer [~~a family opportunity accounts~~] an individual development  
10 account program pursuant to a contract with the director;

11 O. "reserve account" means an account established  
12 pursuant to the [~~Family Opportunity Accounts~~] Individual  
13 Development Account Act in an authorized financial institution  
14 in which matching funds are maintained and available for  
15 payment for a predetermined allowable use following completion  
16 of all program requirements by the account owner; and

17 P. "tribe" means an Indian nation, tribe or pueblo  
18 located in whole or in part within New Mexico."

19 Section 3. Section 58-30-3 NMSA 1978 (being Laws 2003,  
20 Chapter 362, Section 3, as amended) is amended to read:

21 "58-30-3. [~~FAMILY OPPORTUNITY~~] INDIVIDUAL DEVELOPMENT  
22 ACCOUNTS.--[~~A. A family opportunity~~] An individual development  
23 account may be established for an eligible individual as part  
24 of [~~a family opportunity accounts~~] an individual development  
25 account program if the written instrument creating the account

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1 sets forth the following:

2 [~~(1)~~] A. the account owner is an eligible  
3 individual according to program requirements at the time the  
4 account is established;

5 [~~(2)~~] B. the [~~family opportunity~~] individual  
6 development account is established and maintained in an  
7 authorized financial institution;

8 [~~(3)~~] C. deposits to [~~a family opportunity~~] an  
9 individual development account shall be made in accordance with  
10 the rules adopted pursuant to the [~~Family Opportunity Accounts~~]  
11 Individual Development Account Act;

12 [~~(4)~~] D. withdrawals from [~~a family opportunity~~] an  
13 individual development account shall only be made in accordance  
14 with the [~~Family Opportunity Accounts~~] Individual Development  
15 Account Act and rules adopted pursuant to that act;

16 [~~(5)~~] E. the matching amount that will be deposited  
17 in the reserve account for each dollar deposited by the account  
18 owner in the [~~family opportunity~~] individual development  
19 account; and

20 [~~(6)~~] F. the financial institution in which [~~a~~  
21 ~~family opportunity~~] an individual development account is held  
22 shall not be liable for withdrawals made for uses other than  
23 allowable uses.

24 [~~B. For purposes of 42 USCA 604(h), a family~~  
25 ~~opportunity account shall be deemed to be an individual~~

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1 ~~development account.]"~~

2 Section 4. Section 58-30-4 NMSA 1978 (being Laws 2003,  
3 Chapter 362, Section 4, as amended) is amended to read:

4 "58-30-4. ELIGIBLE INDIVIDUALS.--

5 A. Except as set forth in [~~Subsection~~] Subsections  
6 B and C of this section, an eligible individual shall have  
7 earned income and shall be:

8 (1) eighteen years of age or older;

9 (2) a citizen or legal resident of the United  
10 States;

11 (3) a resident of New Mexico; and

12 (4) an indigent.

13 B. A child in foster care is an eligible individual  
14 if the child:

15 (1) is [~~sixteen~~] fifteen years of age or  
16 older;

17 (2) is an indigent;

18 (3) is a citizen or legal resident of the  
19 United States; and

20 (4) is a resident of New Mexico.

21 C. A child is an eligible individual if the child:

22 (1) is at least fifteen years of age and not  
23 more than eighteen years of age;

24 (2) is a member of a family whose members are  
25 all indigents;

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1                   (3) is a citizen or legal resident of the  
2 United States; and

3                   (4) is a resident of New Mexico."

4           Section 5. Section 58-30-5 NMSA 1978 (being Laws 2003,  
5 Chapter 362, Section 5, as amended) is amended to read:

6           "58-30-5. RESPONSIBILITIES OF THE OFFICE.--

7                   A. The office shall adopt rules implementing the  
8 provisions of the [~~Family Opportunity Accounts~~] Individual  
9 Development Account Act.

10                   B. The director shall make an annual report each  
11 November to the governor and to the legislative finance  
12 committee.

13                   C. The office shall use no more than five percent  
14 of the money appropriated to fund the [~~Family Opportunity~~  
15 ~~Accounts~~] Individual Development Account Act to administer that  
16 act."

17           Section 6. Section 58-30-6 NMSA 1978 (being Laws 2003,  
18 Chapter 362, Section 6, as amended) is amended to read:

19           "58-30-6. [~~FAMILY OPPORTUNITY ACCOUNTS~~] INDIVIDUAL  
20 DEVELOPMENT ACCOUNT COUNCIL.--

21                   A. The "[~~family opportunity accounts~~] individual  
22 development account council" is created. The council shall:

23                               (1) provide oversight of the administration of  
24 the [~~Family Opportunity Accounts~~] Individual Development  
25 Account Act; [~~and~~]

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underscored material = new  
[bracketed material] = delete

1 (2) suggest possible changes that benefit  
2 account owners or improve the effectiveness of the [~~family~~  
3 ~~opportunity accounts~~] individual development account programs  
4 throughout the state; and

5 (3) obtain subject matter expertise through  
6 attendance at conferences and workshops related to asset-  
7 building strategies.

8 B. The [~~family opportunity accounts~~] individual  
9 development account council shall meet at least two times in a  
10 calendar year to perform its duties.

11 C. The [~~family opportunity accounts~~] individual  
12 development account council shall consist of the lieutenant  
13 governor or the lieutenant governor's designee and eight  
14 members appointed by the governor to represent the state  
15 geographically. The director or the director's designee shall  
16 serve as an ex-officio member of the council.

17 D. Appointed members of the [~~family opportunity~~  
18 ~~accounts~~] individual development account council shall receive  
19 per diem and mileage pursuant to the Per Diem and Mileage Act  
20 for attendance at required meetings and at authorized  
21 conferences and workshops and shall receive no other  
22 compensation, perquisite or allowance for their participation  
23 on the council.

24 E. The office shall provide adequate staff support  
25 and administrative services for the [~~family opportunity~~

1 ~~accounts]~~ individual development account council."

2 Section 7. Section 58-30-7 NMSA 1978 (being Laws 2003,  
3 Chapter 362, Section 7, as amended) is amended to read:

4 "58-30-7. ADMINISTRATION OF ~~[FAMILY OPPORTUNITY ACCOUNTS]~~  
5 INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.--

6 A. ~~[A family opportunity]~~ An individual development  
7 account may be established for an eligible individual; provided  
8 that the money deposited in the account is expended for  
9 allowable uses for the account owner or the account owner's  
10 spouse or dependents unless otherwise approved by the program  
11 administrator.

12 B. ~~[A family opportunity accounts]~~ An individual  
13 development account program shall be approved and monitored by  
14 the director for compliance with applicable law, the ~~[Family~~  
15 ~~Opportunity Accounts]~~ Individual Development Account Act and  
16 rules adopted pursuant to that act.

17 C. The program administrator shall establish a  
18 reserve account sufficient to meet the matching fund  
19 commitments made to all account owners participating in the  
20 ~~[family opportunity accounts]~~ individual development account  
21 program and shall report at least quarterly to each account  
22 owner the amount of money available in the reserve account for  
23 use by the program administrator to match withdrawals for  
24 allowable uses. Notwithstanding any matching commitment  
25 otherwise required, the amount of state funds deposited in a

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1 reserve account during a calendar year to match deposits from  
2 any single account owner shall not exceed the higher of:

- 3 (1) two thousand dollars (\$2,000); or  
4 (2) an amount determined by rule of the  
5 office.

6 D. The program administrator shall provide  
7 financial education and other necessary training pertinent to  
8 allowable uses by account owners, develop partnerships with  
9 financial institutions, develop matching funds and manage the  
10 operations of [~~a family opportunity~~] an individual development  
11 account that is established within the program.

12 E. An eligible individual may open [~~a family~~  
13 ~~opportunity~~] an individual development account upon  
14 verification by the program administrator that the individual  
15 maintains no other [~~family opportunity~~] individual development  
16 account.

17 F. More than one eligible individual per household  
18 may hold [~~a family opportunity~~] an individual development  
19 account.

20 G. An account owner shall complete a financial  
21 education program prior to the withdrawal of money from the  
22 account owner's [~~family opportunity~~] individual development  
23 account unless written approval is obtained from the program  
24 administrator."

25 Section 8. Section 58-30-8 NMSA 1978 (being Laws 2003,  
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1 Chapter 362, Section 8, as amended) is amended to read:

2 "58-30-8. ALLOWABLE USES--WITHDRAWALS FROM [~~FAMILY~~  
3 ~~OPPORTUNITY~~] INDIVIDUAL DEVELOPMENT ACCOUNTS--FORFEITURE OF  
4 MATCHING FUNDS FROM RESERVE ACCOUNT--LOSS OF ELIGIBLE  
5 INDIVIDUAL STATUS.--

6 A. Allowable uses of the money withdrawn from [~~a~~  
7 ~~family opportunity~~] an individual development account are  
8 limited to the following:

9 (1) expenses to attend an approved post-  
10 secondary or vocational educational institution, including  
11 payment for tuition, books, supplies and equipment required for  
12 courses;

13 (2) costs to acquire or construct a principal  
14 residence as defined in rules adopted pursuant to the [~~Family~~  
15 ~~Opportunity Accounts~~] Individual Development Account Act that  
16 is the first principal residence acquired or constructed by the  
17 account owner;

18 (3) costs of major home improvements or  
19 repairs on the home of the account owner;

20 (4) capitalization or costs to start or expand  
21 a business, including capital, plant, equipment, operational  
22 and inventory expenses, attorney and accountant fees and other  
23 costs normally associated with starting or expanding a  
24 business;

25 (5) acquisition of a vehicle necessary to

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1 obtain or maintain employment by an account owner or the spouse  
2 of an account owner; and

3 (6) in the case of a deceased account owner,  
4 amounts deposited by the account owner and held in [~~a family~~  
5 ~~opportunity~~] an individual development account shall be  
6 distributed directly to the account owner's spouse, or if the  
7 spouse is deceased or there is no spouse, to a dependent or  
8 other named beneficiary of the deceased or if the recipient is  
9 eligible to maintain the account, the account and matching  
10 funds designated for that account from a reserve account may be  
11 transferred and maintained in the name of the surviving spouse,  
12 dependent or beneficiary.

13 B. Allowable uses of the money withdrawn from an  
14 individual development account for account owners qualifying as  
15 eligible individuals pursuant to the provisions of Subsection C  
16 of Section 58-30-4 NMSA 1978 are limited to expenses to attend  
17 an approved post-secondary or vocational educational  
18 institution, including payment for tuition, books, supplies and  
19 equipment required for courses.

20 [~~B.~~] C. Except as provided in Subsection [~~G~~] D of  
21 this section, if an account owner withdraws money from [~~a~~  
22 ~~family opportunity~~] an individual development account for a use  
23 other than an allowable use, the account owner forfeits a  
24 proportionate amount of matching funds from the reserve  
25 account, as set forth in the agreement between the program

1 administrator and the account owner.

2           ~~[G.]~~ D. The program administrator may approve a  
3 withdrawal by an account owner from ~~[a family opportunity]~~ an  
4 individual development account to be used for a purpose other  
5 than an allowable use only for serious emergencies as specified  
6 in the rules adopted by the office. For such an approved  
7 withdrawal, the proportionate matching funds in the reserve  
8 account shall remain in the reserve account for twelve months  
9 following the withdrawal and, if an amount equal to the  
10 withdrawn money is redeposited in the ~~[family opportunity]~~  
11 individual development account within the twelve months, the  
12 matching funds shall again be available to match withdrawals  
13 for allowable uses.

14           ~~[D.]~~ E. At the request of the account owner and  
15 with the written approval of the program administrator, amounts  
16 may be withdrawn from the account owner's ~~[family opportunity]~~  
17 individual development account and deposited in another ~~[family~~  
18 ~~opportunity]~~ individual development account established for an  
19 eligible individual who is the account owner's spouse or  
20 dependent."

21           Section 9. Section 58-30-9 NMSA 1978 (being Laws 2003,  
22 Chapter 362, Section 9, as amended) is amended to read:

23           "58-30-9. APPROVAL OF ~~[FAMILY OPPORTUNITY ACCOUNTS]~~  
24 INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.--

25           A. The office shall issue a request for proposals

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1 from nonprofit organizations or tribes interested in  
2 establishing [~~a family opportunity accounts~~] an individual  
3 development account program. A proposal submitted in response  
4 to the request shall:

5 (1) describe the geographic area to be served  
6 and the potential individuals who will be assisted by the  
7 program;

8 (2) state the amount, if any, of requested  
9 distributions of state money from the [~~family opportunity~~]  
10 individual development fund;

11 (3) describe the source and the amount of  
12 private or other public funds, if any, that will be used to  
13 supplement the requested distributions from the [~~family~~  
14 ~~opportunity~~] individual development fund;

15 (4) state the amount, not to be less than one  
16 dollar (\$1.00), that will be deposited in the reserve account  
17 for each dollar deposited in [~~a family opportunity~~] an  
18 individual development account;

19 (5) describe the expertise, experience and  
20 other qualifications of the proposer and its employees; and

21 (6) contain such other information as required  
22 in the request for proposals and rules of the director.

23 B. The director shall determine if an interested  
24 nonprofit organization or tribe is eligible to be a program  
25 administrator, determine the legal sufficiency of submitted

1 proposals, evaluate the proposals and, after consulting with  
 2 the [~~family opportunity accounts~~] individual development  
 3 account council, select the program administrators.

4 C. In selecting program administrators, the  
 5 director shall:

6 (1) ensure that geographically diverse  
 7 populations throughout New Mexico will be served by [~~family~~  
 8 ~~opportunity accounts~~] individual development account programs;  
 9 and

10 (2) ensure that a substantial number of  
 11 [~~family opportunity~~] individual development accounts will serve  
 12 families in which one or more children are living with their  
 13 biological or adoptive mother or father, or with their legal  
 14 guardian.

15 D. The director shall enter into contracts with the  
 16 selected program administrators.

17 E. The director shall approve [~~a family opportunity~~  
 18 ~~accounts~~] an individual development account program submitted  
 19 by a program administrator before the program establishes  
 20 [~~family opportunity~~] individual development accounts or reserve  
 21 accounts or provides services required by the [~~Family~~  
 22 ~~Opportunity Accounts~~] Individual Development Account Act to  
 23 eligible individuals.

24 F. [~~A family opportunity~~] An individual development  
 25 account and a reserve account may be established only in an

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1 authorized financial institution.

2 G. The director shall monitor all [~~family~~  
3 ~~opportunity accounts~~] individual development account programs  
4 to ensure that [~~family opportunity~~] individual development  
5 accounts and reserve accounts are being operated according to  
6 the contract provisions, federal law, the provisions of the  
7 [~~Family Opportunity Accounts~~] Individual Development Account  
8 Act and rules adopted pursuant to that act."

9 Section 10. Section 58-30-10 NMSA 1978 (being Laws 2003,  
10 Chapter 362, Section 10, as amended) is amended to read:

11 "58-30-10. TERMINATION OF [~~FAMILY OPPORTUNITY ACCOUNTS~~]  
12 INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.--

13 A. [~~A family opportunity accounts~~] An individual  
14 development account program shall be terminated if the:

15 (1) office determines that the program is not  
16 being operated pursuant to the provisions of the contract  
17 between the program administrator and the director, the [~~Family~~  
18 ~~Opportunity Accounts~~] Individual Development Account Act or  
19 rules adopted pursuant to that act;

20 (2) provider of the program no longer retains  
21 its status as a program administrator; or

22 (3) program administrator chooses to cease  
23 providing [~~a family opportunity accounts~~] an individual  
24 development account program.

25 B. Upon termination of [~~a family opportunity~~

1 ~~accounts]~~ an individual development account program, the  
 2 director shall administer the program until a qualified program  
 3 administrator is selected to administer the program. If, after  
 4 a reasonable period, the director is unable to identify and  
 5 certify a program administrator to assume the authority to  
 6 continue to operate a terminated [~~family opportunity accounts]~~  
 7 individual development account program, money in a reserve  
 8 account shall be deposited into the [~~family opportunity]~~  
 9 individual development accounts of the account owners for whom  
 10 the proportionate share of the reserve account was established  
 11 as of the first day of termination of the program."

12 Section 11. Section 58-30-11 NMSA 1978 (being Laws 2003,  
 13 Chapter 362, Section 11, as amended) is amended to read:

14 "58-30-11. REPORTING.--A program administrator operating  
 15 [~~a family opportunity accounts]~~ an individual development  
 16 account program pursuant to the [~~Family Opportunity Accounts]~~  
 17 Individual Development Account Act shall report at least  
 18 annually to the director, as set forth in the rules of the  
 19 office. Individual account owners shall not be identified in  
 20 the report. The report shall include:

21 A. the number of eligible individuals making  
 22 contributions to [~~family opportunity]~~ individual development  
 23 accounts;

24 B. the total money contributed to each [~~family~~  
 25 ~~opportunity]~~ individual development account and deposited into

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1 each reserve account;

2 C. the total money in the aggregate deposited in  
3 [~~family opportunity~~] individual development accounts and  
4 reserve accounts administered by the [~~family opportunity~~  
5 ~~accounts~~] individual development account program;

6 D. the amounts withdrawn from [~~family opportunity~~]  
7 individual development accounts for either allowable uses or  
8 for uses other than allowable uses and the amounts withdrawn  
9 from reserve accounts;

10 E. the balances remaining in [~~family opportunity~~]  
11 individual development accounts and reserve accounts; and

12 F. other information requested by the director to  
13 monitor the costs and outcomes of the [~~family opportunity~~  
14 ~~accounts~~] individual development account program."

15 Section 12. Section 58-30-12 NMSA 1978 (being Laws 2003,  
16 Chapter 362, Section 12, as amended) is amended to read:

17 "58-30-12. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF  
18 CERTAIN MEANS-TESTED PROGRAMS.--

19 A. Money deposited into [~~a family opportunity~~] an  
20 individual development account, interest earned on that account  
21 and interest and matching funds deposited in a reserve account  
22 for the benefit of the account owners shall be disregarded for  
23 the purposes of determining eligibility for benefits and for  
24 determining benefit amounts pursuant to the New Mexico Works  
25 Act.

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1           B. When determining eligibility for benefits and  
 2 determining benefit amounts due under the food stamp program  
 3 and medicaid, the human services department shall, pursuant to  
 4 the authority granted by 7 USCA 2014 (d) and (g), disregard  
 5 money deposited into [~~a family opportunity~~] an individual  
 6 development account, interest earned on that account and  
 7 interest and matching funds deposited in a reserve account for  
 8 the benefit of the account owners.

9           C. Money withdrawn from [~~a family opportunity~~] an  
 10 individual development account for a purpose other than an  
 11 allowable use shall be counted as a resource for purposes of  
 12 the New Mexico Works Act or medicaid unless the withdrawal is  
 13 approved by the program administrator and an amount equal to  
 14 the amount withdrawn is replaced within the twelve-month  
 15 allowable time period pursuant to Subsection [G] D of Section  
 16 58-30-8 NMSA 1978."

17           Section 13. Section 58-30-13 NMSA 1978 (being Laws 2006,  
 18 Chapter 96, Section 13) is amended to read:

19           "58-30-13. INDIVIDUAL DEVELOPMENT FUND CREATED.--The  
 20 "[~~family opportunity~~] individual development fund" is created  
 21 in the state treasury. The fund shall consist of  
 22 appropriations, gifts, grants, donations and bequests made to  
 23 the fund. Income from the fund shall be credited to the fund,  
 24 and money in the fund shall not be transferred to any other  
 25 fund at the end of a fiscal year. Money in the fund is

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1 appropriated to the office [~~of workforce training and~~  
2 ~~development~~] for the purposes of carrying out the provisions of  
3 the [~~Family Opportunity Accounts~~] Individual Development  
4 Account Act. Expenditures shall be made on warrant of the  
5 secretary of finance and administration [~~on~~] pursuant to  
6 vouchers signed by the director [~~of the office of workforce~~  
7 ~~training and development~~] or the director's designee."

8 Section 14. Section 27-2B-7 NMSA 1978 (being Laws 1998,  
9 Chapter 8, Section 7 and Laws 1998, Chapter 9, Section 7, as  
10 amended) is amended to read:

11 "27-2B-7. FINANCIAL STANDARD OF NEED.--

12 A. The secretary shall adopt a financial standard  
13 of need based upon the availability of federal and state funds  
14 and based upon appropriations by the legislature of the  
15 available federal temporary assistance for needy families grant  
16 made pursuant to the federal act in the following categories:

- 17 (1) cash assistance;
- 18 (2) child care services;
- 19 (3) other services; and
- 20 (4) administrative costs.

21 The legislature shall determine the actual percentage of  
22 each category to be used annually of the federal temporary  
23 assistance for needy families grant made pursuant to the  
24 federal act.

25 B. The following income sources are exempt from the

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underscoring material = new  
[bracketed material] = delete

1 gross income test, the net income test and the cash payment  
2 calculation:

- 3 (1) medicaid;
- 4 (2) food stamps;
- 5 (3) government-subsidized foster care payments  
6 if the child for whom the payment is received is also excluded  
7 from the benefit group;
- 8 (4) supplemental security income;
- 9 (5) government-subsidized housing or housing  
10 payments;
- 11 (6) federally excluded income;
- 12 (7) educational payments made directly to an  
13 educational institution;
- 14 (8) government-subsidized child care;
- 15 (9) earned income that belongs to a person  
16 seventeen years of age or younger who is not the head of  
17 household;
- 18 (10) fifty dollars (\$50.00) of collected child  
19 support passed through to the participant by the department's  
20 child support enforcement program;
- 21 (11) earned income deposited in [~~a family~~  
22 ~~opportunity~~] an individual development account by a member of  
23 the benefit group or money received as matching funds for  
24 allowable uses by the owner of the [~~family opportunity~~]  
25 individual development account pursuant to the [~~Family~~

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1 ~~Opportunity Accounts]~~ Individual Development Account Act; and  
2 (12) other income sources as determined by the  
3 department.

4 C. The total countable gross earned and unearned  
5 income of the benefit group cannot exceed eighty-five percent  
6 of the federal poverty guidelines for the size of the benefit  
7 group.

8 D. For a benefit group to be eligible to  
9 participate:

10 (1) gross countable income that belongs to the  
11 benefit group must not exceed eighty-five percent of the  
12 federal poverty guidelines for the size of the benefit group;  
13 and

14 (2) net countable income that belongs to the  
15 benefit group must not equal or exceed the financial standard  
16 of need after applying the disregards set out in Paragraphs (1)  
17 through (4) of Subsection E of this section.

18 E. Subject to the availability of state and federal  
19 funds, the department shall determine the cash payment of the  
20 benefit group by applying the following disregards to the  
21 benefit group's earned income and then subtracting that amount  
22 from the benefit group's financial standard of need:

23 (1) for the first two years of receiving cash  
24 assistance or services, if a participant works over the work  
25 requirement rate set by the department pursuant to the New

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1 Mexico Works Act, one hundred percent of the income earned by  
2 the participant beyond that rate;

3 (2) for the first two years of receiving cash  
4 assistance or services, for a two-parent benefit group in which  
5 one parent works over thirty-five hours per week and the other  
6 works over twenty-four hours per week, one hundred percent of  
7 income earned by each participant beyond the work requirement  
8 rate set by the department;

9 (3) one hundred twenty-five dollars (\$125) of  
10 monthly earned income and one-half of the remainder, or for a  
11 two-parent family, two hundred twenty-five dollars (\$225) of  
12 monthly earned income and one-half of the remainder for each  
13 parent;

14 (4) monthly payments made for child care at a  
15 maximum of two hundred dollars (\$200) for a child under two  
16 years of age and at a maximum of one hundred seventy-five  
17 dollars (\$175) for a child two years of age or older;

18 (5) costs of self-employment income; and

19 (6) business expenses.

20 F. The department may recover overpayments of cash  
21 assistance on a monthly basis not to exceed fifteen percent of  
22 the financial standard of need applicable to the benefit  
23 group."

24 Section 15. Section 27-2B-8 NMSA 1978 (being Laws 1998,  
25 Chapter 8, Section 8 and Laws 1998, Chapter 9, Section 8, as

.166388.3

1 amended) is amended to read:

2 "27-2B-8. RESOURCES.--

3 A. Liquid and nonliquid resources owned by the  
4 benefit group shall be counted in the eligibility  
5 determination.

6 B. A benefit group may at a maximum own the  
7 following resources:

8 (1) two thousand dollars (\$2,000) in nonliquid  
9 resources;

10 (2) one thousand five hundred dollars (\$1,500)  
11 in liquid resources;

12 (3) the value of the principal residence of  
13 the participant;

14 (4) the value of burial plots and funeral  
15 contracts for family members;

16 (5) [~~family opportunity~~] individual  
17 development accounts; and

18 (6) the value of work-related equipment up to  
19 one thousand dollars (\$1,000).

20 C. Vehicles owned by the benefit group shall not be  
21 considered in the determination of resources attributed to the  
22 benefit group."

23 Section 16. Section 27-2B-10 NMSA 1978 (being Laws 1998,  
24 Chapter 8, Section 10 and Laws 1998, Chapter 9, Section 10, as  
25 amended) is amended to read:

.166388.3

1           "27-2B-10. [~~FAMILY OPPORTUNITY~~] INDIVIDUAL DEVELOPMENT  
 2 ACCOUNTS.--A participant may establish [~~a family opportunity~~]  
 3 an individual development account pursuant to the [~~Family~~  
 4 ~~Opportunity Accounts~~] Individual Development Account Act."

5           Section 17. Section 27-2D-6 NMSA 1978 (being Laws 2003,  
 6 Chapter 317, Section 6, as amended) is amended to read:

7           "27-2D-6. RESOURCES.--

8                   A. Liquid and nonliquid resources owned by the  
 9 benefit group shall be counted in the eligibility  
 10 determination.

11                   B. A benefit group may at a maximum own the  
 12 following resources:

13                               (1) two thousand dollars (\$2,000) in nonliquid  
 14 resources;

15                               (2) one thousand five hundred dollars (\$1,500)  
 16 in liquid resources;

17                               (3) the value of the principal residence of  
 18 the participant;

19                               (4) the value of burial plots and funeral  
 20 contracts for family members;

21                               (5) [~~family opportunity~~] individual  
 22 development accounts; and

23                               (6) the value of work-related equipment up to  
 24 one thousand dollars (\$1,000).

25                   C. Vehicles owned by the benefit group shall not be

.166388.3

1 considered in the determination of resources attributed to the  
2 benefit group."

3 Section 18. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is July 1, 2007.

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